



## NAMBUCCA SHIRE COUNCIL

### FRAUD MANAGEMENT STRATEGY POLICY NO: CS 19

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#### *Our Vision*

Nambucca Valley ~ Living at its best

#### *Our Mission Statement*

‘The Nambucca Valley will value and protect its natural environment, maintain its assets and infrastructure and develop opportunities for its people.’

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# Section 1: Introduction

Nambucca Shire Council is committed to high ethical standards. The Fraud and Corruption Prevention Strategy is aimed at helping the Council to maintain these high standards.

The Fraud and Corruption Prevention Strategy details the Council's commitment to fraud and corruption prevention. The strategy supports our Council's Vision and Mission:

## Vision

"Nambucca Valley ~ Living at its Best"

## Mission

'The Nambucca Valley will value and protect its natural environment, maintain its assets and infrastructure and develop opportunities for its people.'

The Strategy draws together the initiatives designed to deal with the prevention, detection and investigation of any possible fraud or corruption in, and against, the Council.

The Corruption Prevention Strategy provides the Council's strategic approach to fraud and corruption prevention, detection and investigation.

It will be the responsibility of each Senior Staff member to provide relevant procedural information and training to their managers and employees in order that the objectives of the Corruption Prevention Strategy are achieved.

## Aim

The aims of the Strategy are as follows:

- To reduce the likelihood of employees, Councillors and members of the public acting in a fraudulent or corrupt manner towards the Council.
- To reduce opportunities in the Council for fraud and corrupt activity.
- To improve the possibility of detecting those employees, Councillors or members of the public who do act in a fraudulent or corrupt manner.
- To ensure appropriate action is taken with employees, Councillors or members of the public found to have acted in a fraudulent or corrupt manner.
- To clearly define the responsibility levels of employees, Councillors and managers for prevention, detection and investigation of fraud and corruption.
- To ensure employees, Councillors and managers have the necessary tools and understanding to meet these responsibilities.

## Fraud and Corruption Prevention Strategy

The strategy examines the following areas:

**Section 1** explains the Council's strategy in controlling fraud and corruption.

**Section 2** deals with the responsibility structure. It contains the responsibilities for the implementation and co-ordination of all aspects of the Corruption Prevention Strategy across all aspects of the Council's operations.

**Section 3** deals with fraud and corruption risk assessment and contains the program designed to identify specific areas of fraud and corruption risk and the development of countermeasures and action plans to reduce unacceptable risks.

**Section 4** deals with Council officials' awareness and outlines the plan of action to raise awareness and modify attitudes across the Council concerning fraud and corruption.

**Section 5** deals with customer and community awareness.

**Section 6** deals with the notification systems. It contains details of the procedures and systems implemented for the internal reporting and recording of suspected fraud and corruption situations, management of investigation information and distribution of information.

**Section 7** deals with detection systems.

**Section 8** deals with the external notification systems. It contains the guidelines for reporting suspected fraud and corruption to external authorities, especially the Independent Commission Against Corruption, Ombudsman and the Police Service.

**Section 9** contains details of the investigation system.

**Section 10** deals with the conduct and disciplinary systems. It contains the Code of Conduct and Disciplinary Standards of expected behaviour established by the Council.

## **Definitions of Fraud and Corruption**

**Fraud** is defined in the Australian Standard *Fraud and Corruption Control AS8001-2008* as:

*“dishonest activity causing actual or potential financial loss to any person or entity including theft of moneys or other property by employees or persons external to the entity and whether or not deception is used at the time, immediately before or immediately following the activity. This also includes the deliberate falsification, concealment, destruction or use of falsified documentation used or intended for use for normal business purposes or the improper use of information or position”.*

**Corruption** is defined in the Independent Commission Against Corruption Act 1988 (ICAC Act) in sections 7, 8 and 9.

Section 7 essentially refers the reader to sections 8 and 9.

Section 8 essentially refers to corrupt conduct including dishonest and partial conduct by a public official, breach of public trust, or misuse of information or material that he or she has acquired in the course of his or her official functions. The conduct of any person that could adversely affect the official conduct of a public officer and involves a long list of crimes is specifically included as corrupt conduct.

Section 9 attempts to limit the extent of the meaning of corrupt conduct by stating that for conduct to be corrupt it must involve:

- a crime;
- a disciplinary offence; or
- grounds for firing.

The following extracts from the ICAC Act are relevant:

### **Section 7      Corrupt conduct**

- 1      For the purposes of this Act, corrupt conduct is any conduct which falls within the description of corrupt conduct in either or both of subsections (1) and (2) of section 8, but which is not excluded by section 9.
- 2      Conduct comprising a conspiracy or attempt to commit or engage in conduct that would be corrupt conduct under section 8 (1) or (2) shall itself be regarded as corrupt conduct under section 8 (1) or (2).
- 3      Conduct comprising such a conspiracy or attempt is not excluded by section 9 if, had the conspiracy or attempt been brought to fruition in further conduct, the further conduct could constitute or involve an offence or grounds referred to in that section.

### **Section 8      General nature of corrupt conduct**

- 1      Corrupt conduct is:
  - (a) any conduct of any person (whether or not a public official) that adversely affects, or that could adversely affect, either directly or indirectly, the honest or impartial exercise of official functions by any public official, any group or body of public officials or any public authority, or
  - (b) any conduct of a public official that constitutes or involves the dishonest or partial exercise of any of his or her official functions, or
  - (c) any conduct of a public official or former public official that constitutes or involves a breach of public trust, or
  - (d) any conduct of a public official or former public official that involves the misuse of information or material that he or she has acquired in the course of his or her official functions, whether or not for his or her benefit or for the benefit of any other person.
- 2      Corrupt conduct is also any conduct of any person (whether or not a public official) that adversely affects, or that could adversely affect, either directly or indirectly, the exercise of official functions by any public official, any group or body of public officials or any public authority and which could involve any of the following matters:
  - (a) official misconduct (including breach of trust, fraud in office, nonfeasance, misfeasance, malfeasance, oppression, extortion or imposition),
  - (b) bribery,
  - (c) blackmail,
  - (d) obtaining or offering secret commissions,
  - (e) fraud,
  - (f) theft,
  - (g) perverting the course of justice,
  - (h) embezzlement,
  - (i) election bribery,
  - (j) election funding offences,
  - (k) election fraud,
  - (l) treating,
  - (m) tax evasion,

- (n) revenue evasion,
- (o) currency violations,
- (p) illegal drug dealings,
- (q) illegal gambling,
- (r) obtaining financial benefit by vice engaged in by others,
- (s) bankruptcy and company violations,
- (t) harbouring criminals,
- (u) forgery,
- (v) treason or other offences against the Sovereign,
- (w) homicide or violence,
- (x) matters of the same or a similar nature to any listed above,
- (y) any conspiracy or attempt in relation to any of the above.

3 Conduct may amount to corrupt conduct under this section even though it occurred before the commencement of this subsection, and it does not matter that some or all of the effects or other ingredients necessary to establish such corrupt conduct occurred before that commencement and that any person or persons involved are no longer public officials.

4 Conduct committed by or in relation to a person who was not or is not a public official may amount to corrupt conduct under this section with respect to the exercise of his or her official functions after becoming a public official.

5 Conduct may amount to corrupt conduct under this section even though it occurred outside the State or outside Australia, and matters listed in subsection (2) refer to:

- (a) matters arising in the State or matters arising under the law of the State, or
- (b) matters arising outside the State or outside Australia or matters arising under the law of the Commonwealth or under any other law.

6 the specific mention of a kind of conduct in a provision of this section shall not be regarded as limiting the scope of any other provision of this section.

### **Section 9      Limitation on nature of corrupt conduct**

1 Despite section 8, conduct does not amount to corrupt conduct unless it could constitute or involve:

- (a) a criminal offence, or
- (b) a disciplinary offence, or
- (c) reasonable grounds for dismissing, dispensing with the services of or otherwise terminating the services of a public official, or
- (d) in the case of conduct of a Minister of the Crown or a member of a House of Parliament - a substantial breach of an applicable code of conduct.

2 It does not matter that proceedings or action for such an offence can no longer be brought or continued, or that action for such dismissal, dispensing or other termination can no longer be taken.

3 For the purposes of this section:

***applicable code of conduct*** means, in relation to:

- (a) a Minister of the Crown—a ministerial code of conduct prescribed or adopted for the purposes of this section by the regulations, or
- (b) a member of the Legislative Council or of the Legislative Assembly (including a Minister of the Crown)—a code of conduct adopted for the purposes of this section by resolution of the House concerned.

**criminal offence** means a criminal offence under the law of the State or under any other law relevant to the conduct in question.

**disciplinary offence** includes any misconduct, irregularity, neglect of duty, breach of discipline or other matter that constitutes or may constitute grounds for disciplinary action under any law.

- 6 A reference to a disciplinary offence in this section and sections 74A and 74B includes a reference to a substantial breach of an applicable requirement of a code of conduct required to be complied with under section 440 (5) of the *Local Government Act 1993*, but does not include a reference to any other breach of such a requirement.

### Public Official

The term *public official* is defined in section 3 of the ICAC Act.

**public official** means an individual having public official functions or acting in a public official capacity, and includes any of the following:

- (a) the Governor (whether or not acting with the advice of the Executive Council),
- (b) a person appointed to an office by the Governor,
- (c) a Minister of the Crown, a member of the Executive Council or a Parliamentary Secretary,
- (d) a member of the Legislative Council or of the Legislative Assembly,
- (e) a person employed by the President of the Legislative Council or the Speaker of the Legislative Assembly or both,
- (ei) A person employed under the Members of Parliament Staff Act 2013,
- (f) a judge, a magistrate or the holder of any other judicial office (whether exercising judicial, ministerial or other functions),
- (g) A person employed in a Public Service Agency or any other Government Sector Agency within the meaning of the Government Sector Employment Act 2013,
- (h) an individual who constitutes or is a member of a public authority,
- (i) a person in the service of the Crown or of a public authority,
- (j) an individual entitled to be reimbursed expenses, from a fund of which an account mentioned in paragraph (d) of the definition of **public authority** is kept, of attending meetings or carrying out the business of any body constituted by an Act,
- (k) a member of the NSW Police Force,
- (k1) an accredited certifier within the meaning of the *Environmental Planning and Assessment Act 1979*.
- (l) the holder of an office declared by the regulations to be an office within this definition,
- (m) an employee of or any person otherwise engaged by or acting for or on behalf of, or in the place of, or as deputy or delegate of, a public authority or any person or body described in any of the foregoing paragraphs.

## Section 2: Responsibility Structure

### Employees and Councillors

Employees and Councillors have the following responsibilities:

- report all instances of suspected fraud or corrupt conduct in accordance with the reporting policy
- report any attempts at fraud or corruption. This includes any corrupt inducements offered or hinted at.
- **not** to take detrimental action against any individuals reporting fraud, corruption, maladministration or serious and substantial waste. They must protect colleagues from detrimental action if they are aware of colleagues who have made any reports.
- operate systems of internal control to prevent and detect fraud or corruption in accordance with instructions and established procedures
- provide cooperation and assistance to investigators or officials investigating suspected or reported fraud or corruption

### Managers and Supervisors

Managers and supervisors have the following responsibilities, in addition to the responsibilities that they have as employees:

- take appropriate measures to ensure that their employees understand the standards of expected behaviour as outlined in the Code of Conduct and relevant policies and procedures
- ensure that all reports made to them of suspected fraud or corruption, maladministration and serious and substantial wastage are referred to the General Manager who carries out the role of Corruption Prevention Coordinator, without delay. If a report is received orally, it should be clearly documented, signed and dated.
- maintain the confidentiality of people making reports and the subject matter of reports, insofar as practical and in conformity with the instructions of the investigator
- ensure that employees who have reported in accordance with the reporting procedure are not disadvantaged or suffer detrimental action
- identify and assess the risks of fraud and corruption in their area of responsibility
- ensure that reasonable internal controls have been implemented to address these risks, and monitor the continued operation of controls to prevent and detect fraud and corruption in their area
- provide leadership in the area of ethics and the minimisation of fraud and corruption
- undertake regular reviews and checks to detect irregularities
- use basic data mining tools to detect possible fraud and corruption
- ensure that all employees and Councillors have been made aware of the fraud control policy document and its contents, and that the policy is readily available for them
- ensure that contractors and consultants employed by the Council are bound contractually to comply with appropriate ethical standards, including reporting any suspected or alleged fraud or corruption

- ensure a disciplinary interview is conducted and appropriate action taken where evidence indicates that employees have been involved in fraud or corrupt conduct. This action is to be taken in accordance with the Council's disciplinary standards. The person who conducted the investigation is not to conduct the disciplinary interview.
- take disciplinary action, if considered necessary, promptly following completion of the investigation report in accordance with the disciplinary standards.

### **Corruption Prevention Coordinator (If not the General Manager)**

The responsibilities of the Corruption Prevention Coordinator are to:

- maintain the Council's corruption prevention strategy
- coordinate the elements which form the corruption prevention strategy
- set priorities for the development and implementation of corporate wide corruption prevention initiatives
- provide an on-going review and promotion of the corruption prevention strategy
- provide an alternative internal reporting channel and act as a clearing house for all reports
- make an initial assessment of each report, and ensure appropriate follow up action is taken
- ensure feedback is provided to the person who made the initial report
- ensure that the person against whom the complaint is made is advised at the completion of the investigation of the outcome of any investigation, irrespective of the outcome
- receive all allegations of corruption, maladministration and serious and substantial wastage and copies of all investigation reports
- record all allegations and file all investigation reports
- update Investigation register/database on results of all investigations into allegations of corruption, maladministration and waste
- provide the General Manager with sufficient information to enable reporting of suspected corrupt conduct to the Independent Commission Against Corruption (ICAC)

### **General Manager**

- ensure that the plan and activities adequately address the corruption risks and related systems of internal control
- ensure that regular reviews and checks are undertaken to detect irregularities
- receive summary information about investigations undertaken into suspected fraud and corruption

## Section 3: Corruption Risk Assessment

Council is committed to:

- undertaking regular assessments of the fraud and corruption risks
- quantifying the level, nature and form of the fraud and corruption risks to be managed
- taking actions to mitigate issues identified in the fraud and corruption risk assessment

Corruption can occur whenever a person supplies or has access to resources or information or has responsibility for decision making. Since this describes almost any activity, all activities should be designed with an awareness of the corruption risks, which arise in the activity and the management controls that can reduce the risk to an acceptable level.

Managers are responsible for assessing the risks of fraud and corruption within their areas. They consider the internal controls in place to mitigate those risks and assess the residual risks. Where the residual risk is high they are responsible for ensuring further measures are undertaken to reduce the risk to an acceptable level.

The following procedures should be undertaken by managers in accordance with the Australian Standard on *Fraud and Corruption Control*, as adapted:

### 1 Identify the risks

The objective of this phase is to generate a register of all possible inherent risk of fraud or corruption for subsequent analysis. All inherent risks identified should be documented at this point regardless of whether a preliminary assessment concludes that internal controls currently in force will be fully effective in mitigating the risk.

### 2 Analyse the risks

Document key internal controls currently in force, which would tend to have the effect of mitigating the risks of fraud and corruption under consideration. Consider the fraud and corruption risks, taking into account the key controls identified for each risk. For each risk rate it in terms of likelihood and consequence. Work out the overall residual rating for each risk based on your assessments of likelihood and consequence.

### 3 Evaluate the risks

Identify the fraud and corruption risks that are unacceptably high.

### 4 Treat the risks

For all fraud and corruption risks that are unacceptably high undertake one or more of the following:

- Alter the existing internal control procedures
- Implement new internal control procedures
- Implement procedures aimed at detecting possible fraud or corruption
- Implement fraud prevention strategies

It is the responsibility of the Manager of the area to monitor and review their fraud and corruption risk assessment and notify the Corruption Prevention Coordinator of any changes. Assessments of the fraud and corruption risks will be undertaken at least every two to three years.

## Determine Consequence

The inherent risk consequence (impact) of risk represents the plausible worst case scenario consequence if the risk event occurred, in an environment of no controls. It is categorised according to following levels of impact on the achievement of Council strategy and objectives:

- 1 Insignificant
- 2 Minor
- 3 Moderate
- 4 Significant
- 5 Catastrophic

The categories to consider when rating inherent risk consequence are:

- a) Financial
- b) Reputation
- c) Operational

This table below is used to rate the inherent risk consequence for each risk and is a fair representation of the risk appetite of Council:

		Impact Level				
		5 Catastrophic	4 Significant	3 Moderate	2 Minor	1 Insignificant
Consequence Types	\$	<ul style="list-style-type: none"> <li>Direct loss or opportunity cost with &gt; A\$10M impact</li> </ul>	<ul style="list-style-type: none"> <li>Direct loss or opportunity cost with A\$2-10M impact</li> </ul>	<ul style="list-style-type: none"> <li>Direct loss or opportunity cost with A\$250K-2M impact</li> </ul>	<ul style="list-style-type: none"> <li>Direct loss or opportunity cost with A\$50K-250K impact</li> </ul>	<ul style="list-style-type: none"> <li>Direct loss or opportunity cost with &gt; A\$50K impact</li> </ul>
	Operations	<ul style="list-style-type: none"> <li>Key project failure</li> <li>Information systems or security failure causing permanent loss of critical business information</li> <li>Event resulting in death</li> <li>A major environmental incident</li> </ul>	<ul style="list-style-type: none"> <li>Key project delays/under-delivery resulting in material impact on planned project outcomes</li> <li>Information systems failure causing temporary loss of information or significant delays</li> <li>Decreasing population</li> <li>Skilled staff turnover of more than 5 p/a</li> <li>Event resulting in multiple serious injuries</li> </ul>	<ul style="list-style-type: none"> <li>Key project delays but no material impact on quality outcome</li> <li>Breach of information security without loss of information</li> <li>Skilled staff turnover between 3 and 5 p/a</li> <li>Event resulting in serious injury</li> <li>An isolated environmental incident</li> </ul>	<ul style="list-style-type: none"> <li>Non-key project delays or under-delivery of planned outcomes</li> <li>Evidence of attempted breach of information security</li> <li>Skilled staff turnover between 2 and 3 p/a</li> </ul>	<ul style="list-style-type: none"> <li>Information system unavailable for 1 day or less</li> </ul>
	Reputation	<ul style="list-style-type: none"> <li>Significant adverse national media coverage</li> <li>Regulatory sanctions</li> </ul>	<ul style="list-style-type: none"> <li>ICAC investigation</li> <li>Significant state media coverage</li> <li>Adverse national media coverage</li> </ul>	<ul style="list-style-type: none"> <li>Adverse regional media coverage</li> <li>Potential breach of regulations</li> <li>Community protests/strikes</li> </ul>	<ul style="list-style-type: none"> <li>Local Government sector knowledge of incident, but no media attention</li> <li>Some impact on community support</li> </ul>	<ul style="list-style-type: none"> <li>No reputation damage – internal knowledge only</li> <li>Minimal or no impact on community support</li> </ul>

### Determine Current Likelihood

The inherent risk likelihood (probability) represents the possibility that a given event will occur, in an environment without controls.

This table below is used to rate the inherent risk likelihood for each risk:

Likelihood Level					
5 Almost Certain		4 Likely		3 Possible	
2 Unlikely		1 Almost Impossible / Rare			
Description	<ul style="list-style-type: none"> <li>The occurrence of the event(s) necessary for the risk to materialise is almost certain in the foreseeable future</li> </ul>	<ul style="list-style-type: none"> <li>The occurrence of the event(s) necessary for the risk to materialise is likely, but not almost certain in the foreseeable future</li> </ul>	<ul style="list-style-type: none"> <li>The occurrence of the event(s) necessary for the risk to materialise is possible, but not likely in the foreseeable future</li> </ul>	<ul style="list-style-type: none"> <li>The occurrence of the event(s) necessary for the risk to materialise is unlikely, but not almost impossible in the foreseeable future</li> </ul>	<ul style="list-style-type: none"> <li>The occurrence of the event(s) necessary for the risk to materialise is almost impossible in the foreseeable future</li> </ul>
	<ul style="list-style-type: none"> <li>The expected frequency of the event(s) is more than once every year</li> </ul>	<ul style="list-style-type: none"> <li>The expected frequency of the event(s) is once every 1-3 years</li> </ul>	<ul style="list-style-type: none"> <li>The expected frequency of the event(s) is once every 3-5 years</li> </ul>	<ul style="list-style-type: none"> <li>The expected frequency of the event(s) is once every 5-10 years</li> </ul>	<ul style="list-style-type: none"> <li>The expected frequency of the event(s) is less than once every 10 years</li> </ul>

### Determine Risk Rating

The potential consequence and likelihood of each risk identified is combined to determine the Inherent Risk Rating. Inherent Risk Ratings are critical, as they are the basis for identifying the most critical risks that need to be treated by management.

The table below, which is consistent with the Australia Standard AS/NZS ISO 31000:2018, is used to determine the Inherent Risk rating for each risk. The information from the risk assessment process is fed into the Council risk & control registers which form the basis for a risk map for Council.

C o n s e q u e n c e	Catastrophic					
	Significant					
	Moderate					
	Minor					
	Insignificant					
<b>Key:</b>		Rare	Unlikely	Possible	Likely	Almost Certain
		<b>Likelihood</b>				
Extreme Risk						
High Risk						
Medium Risk						
Low Risk						

## Section 4: Council Officials' Awareness

Council is committed to:

- undertaking measures to help ensure that all employees, Councillors and delegates understand the ethical behaviours expected of them in the workplace
- undertaking measures to help ensure that contractors and suppliers understand that Council will not tolerate corruption, including fraudulent dealings
- providing training programs in ethical behaviours across our organisation
- providing guidance material that deals with real-life situations, conflicts and fraud risks that employees face in their work areas
- encouraging contractors and suppliers to provide information if they suspect corruption is occurring

### Council Officials

All Council officials are to be made aware that fraud and corruption is unacceptable and must understand the levels of ethical conduct expected of them as contained in the Council's Code of Conduct.

Those who have a responsibility for resources, decision making or information need to be aware of the behaviours that could result in fraud or corruption, either actual or perceived.

The Code of Conduct and the Fraud and Corruption Prevention Policy are to be made available to all Council officials.

### Third Parties

Third parties who may be seen by the public as representing the Council are to be made aware of the standards of conduct and ethics expected of them.

Third parties dealing with the Council, such as contractors, consultants and suppliers are to be made aware of the ethical standards expected of them in their dealings with the Council and our employees and Councillors. This information is conveyed to the third parties via the Council's Statement of Business Ethics.

Breaches of the Statement of Business Ethics by third parties can result in penalties being imposed and possible cancellation of the contract.

The third parties are also to be made aware that they are required to report any suspected or alleged fraud or corruption involving the Council to the Corruption Prevention Coordinator.

### Education Plan

#### 1 Council Officials

Nambucca Shire Council undertakes training for all staff and Councillors in the Council's Code of Conduct and the Internal Reporting Policy.

The objectives as covered by the Code of Conduct and Ethics training are as follows:

- Define fraud and corrupt conduct
- Understand the code of conduct and ethics
- Understand employee responsibilities
- Be able to identify conflicts of interest (both pecuniary and non pecuniary)
- Hospitality, gifts and benefits
- Understanding reporting mechanisms within the Council

- Identify related Council Policies

## **2 Contractors and Suppliers**

All Contractors and major suppliers should be provided with a copy of the Council's Statement of Business Ethics.

## Section 5: Customer and Community Awareness

The objectives of customer and community awareness are to ensure that:

- the community (ratepayers) has confidence in the integrity of Council
- customers understand that Council will not tolerate corruption, including fraudulent dealings
- the community and customers are encouraged to provide information if they suspect corruption is occurring, and there are easy channels for them to do so

Council promotes community awareness that fraud and corrupt activities against the organisation are unacceptable.

Council undertakes the provision of services to ratepayers with integrity and high ethical standards.

Council encourages the community and customers to report any fraud or corruption against the organisation that they suspect. Relevant managers and employees are to ensure that it is easy for members of the public and customers to report any suspected fraud or corruption. Once a report is made to a Councillor or employee then he or she is to report this in accordance with the policy for reporting corruption, maladministration and serious and substantial waste.

## Section 6: Notification Systems

Ignoring fraud or corruption is tantamount to endorsing it. Ignoring fraud or corruption and turning “a blind eye” can lead to it becoming acceptable behaviour that can taint whole sections of the organisation. Reporting fraud and corruption is an obligation imposed by honesty.

Councillors and employees are required to report any suspected fraud or corruption. The requirement is contained in:

- 1 The Council's Fraud and Corruption Prevention Policy
- 2 The Council's Code of Conduct
- 3 The Council's Internal Reporting Policy.

The Fraud and Corruption Prevention Policy, Code of Conduct and the Internal Reporting Policy are communicated to employees and Councillors in accordance with the education program as detailed in Section 4 of the FCPS *Council Officials' Awareness*.

People who make genuine reports in accordance with the reporting policy are protected from detrimental action against them.

The *Public Interest Disclosures Act 1994* offers additional legislative protection to an employee that makes a protected disclosure concerning corrupt conduct.

# Section 7: Detection Systems

The following detection systems are applicable:

- early warning systems to alert relevant personnel to possible fraud problems
- undertaking regular reviews and checks to detect irregularities as a routine part of regular line management
- routinely using basic data mining tools, for line management

The Australian Standard on *Fraud and Corruption Control* notes that all entities should adopt a policy aimed at detecting fraud and corruption as soon as possible after it has occurred in the event that the entity's preventative systems fail.

The Standard notes that fraud and corruption prevention may be achieved through:

- vigilance on the part of line management, who must be aware of their responsibility to identify early and report any fraud or corruption or suspected fraudulent or corrupt activity;
- strategic use of the internal audit function;
- the development of specific detection strategies for action by line management; and
- periodic management reviews instigated by the entity's management team.

## 1 Investigation Results

The Corruption Prevention Coordinator (CPC) maintains a record of any investigation conducted as a result of suspected instances of fraud and corrupt being reported.

## 2 General Manager

The General Manager has access to:

- Council's Enterprise Risk Management Plan and Risk Register
- Management Investigation Reports

The General Manager takes relevant fraud and corruption information into account in reviewing the Fraud and Corruption Prevention Strategy.

## Section 8: External Notification System

### ICAC

Under section 11 of the *Independent Commission Against Corruption Act 1988*, the principal officer of a public authority has a duty to report to the Commission any matter that the officer suspects on reasonable grounds concerns or may concern corruption.

The *principal officer* is defined as the person who is the head of the authority, its most senior officer or the person normally entitled to preside at its meetings. The Council's *principal officer* is the General Manager.

The Corruption Prevention Coordinator reports to the General Manager any suspected corruption.

When another person acts as the General Manager during periods of leave or other absence, the duty applies to that person who is acting.

The reference to suspects on *reasonable grounds*, according to ICAC means that there is a real possibility that corrupt conduct may be involved. Proof is not necessary.

ICAC encourage organisations to contact the Commission to discuss particular matters if they are unsure about whether or not to report, and to seek clarification about other issues related to reporting.

Section 11 applies despite any duty of secrecy or other restriction on disclosure.

The requirement to report suspected corruption to ICAC does not affect the obligations to report or refer matters to other bodies, such as the Police, the Ombudsman, or to carry out disciplinary procedures as required.

The Independent Commission Against Corruption (ICAC) has stated that reporting criminal matters to the Commission should not delay the matter being reported to the Police.

ICAC have advised that the following items should be included in reports:

- details of the allegations
- the name and position of any public official/s alleged to be involved
- the name and role of any other people relevant to the matter
- when the alleged conduct occurred
- whether the alleged conduct appears to be a one-off event or part of a wider pattern or scheme
- when the allegation was made or you became aware of the alleged conduct
- what your organisation has done about the suspected conduct, including notification to any other agency
- what further action is proposed
- an indication of the estimated amount of money (if any) involved
- any other indicators of seriousness
- any other relevant information

The Commission may use the matters reported to ICAC in the following ways:

- all information is assessed in terms of the contribution it may make to the work of the Commission;
- a small number of reports are selected for full investigation by ICAC;
- reports may form the basis of corruption prevention advice and project work;
- reports may be referred to more appropriate investigative authorities.

The Corruption Prevention Coordinator will provide the General Manager with information to enable him/her to report the matters to the ICAC.

## **Police**

Where the General Manager reasonably believes that a Council official has committed a criminal offence, the matter should be referred to the police.

If it is suspected that a crime has been committed the police should be informed.

According to section 316 of the Crimes Act 1900, concealing a serious offence is a criminal offence:

*If a person has committed a serious indictable offence and another person who knows or believes that the offence has been committed and that he or she has information which might be of material assistance in securing the apprehension of the offender or the prosecution or conviction of the offender for it fails without reasonable excuse to bring that information to the attention of a member of the Police Force or other appropriate authority, that other person is liable to imprisonment for 2 years.*

Where it is suspected on reasonable grounds that a crime has been committed, this should be reported in accordance with the reporting policy for corruption, maladministration and serious and substantial waste.

The Corruption Prevention Coordinator is responsible for making decisions about reporting matters to the police service.

## **Department of Family and Community Services**

Where there is a reasonable suspicion that a child has experienced or is at risk of abuse, the Department of Family and Community Services should be notified.

The Corruption Prevention Coordinator is responsible for making decisions about reporting matters to the Department of Community Services.

## **Children and Young Persons (Care and Protection) Act 1998**

Section 27 of the *Children and Young Persons (Care and Protection) Act 1998* imposes duties to notify the Secretary in relation to a person who has reasonable grounds to suspect that a child is at risk of significant harm and those grounds arise during course of or from the person's work. These include actions taken to investigate matters that have been the subject of allegations involving:

The Corruption Prevention Coordinator is responsible for making decisions about reporting matters to the Secretary.

## **Annual Report**

The Annual Report provides information to the community about instances of fraud and corruption reported to external bodies.

The Corruption Prevention Coordinator is responsible for providing information to be included in the Annual Report.

# Section 9: Investigation System

All suspected or alleged frauds will be investigated.

The Australian Standard on Fraud and Corruption Control notes that the overall guiding principles of any investigation into alleged improper conduct are independence and objectivity.

Adequate records must be made and kept of investigations.

Alleged criminal activity may also be investigated by the relevant law enforcement authorities.

## 1 Investigation Procedures

The Council has adopted the investigation procedures contained in the *Investigation Toolkit*.

The procedures in the *Investigation Toolkit* cover:

- Receiving allegations or reports
- Recording allegations or reports
- Assessing allegations or reports
- Initial reporting
- Planning the investigation
- Collecting and dealing with documents and exhibits
- Collecting and dealing with electronic evidence
- Conducting the interviews and interrogations
- Assessing the findings
- Reporting
- Preparing a police brief.

The *Investigation Toolkit* contains standard forms and the Toolkit is designed to ensure all investigations are undertaken fairly and consistently in accordance with the rules of natural justice.

## 2 Investigation Training

All investigations will be undertaken by either external consultants or employees who have the necessary training in investigation procedures.

## 3 Procedures for Record Keeping and Information Protection

It is essential that allegations of corrupt conduct maladministration and serious and substantial wastage, evidence collected during investigations and the results of investigations are properly:

- collected
- recorded
- stored; and
- secured

during all phases of the investigations.

The following measures should be adhered to. The Corruption Prevention Co-ordinator will provide a copy of these measures to anyone conducting an investigation into allegations of corruption, maladministration and waste on behalf of the Council.

- 1 Investigation files and reports should be kept securely locked when not in use. They should not be left unattended on desks even for short periods.
- 2 Access to files and reports should only be given to people for official purposes and on a needs basis.

- 3 People to whom access is given must observe the same security procedures. This should be explained to them.
- 4 The name of the person suspected of the conduct should not be mentioned on the cover of any files.
- 5 The name of the person who reported the suspected conduct should not be mentioned on the cover of any file.
- 6 No information from the investigation report is to be attached to any employee's personnel file.
- 7 The Corruption Prevention Coordinator is responsible for all investigation files dealing with suspected corruption, maladministration and wastage.
- 8 All completed investigation files are to be returned to, and retained by, the Corruption Prevention Coordinator.
- 9 The Corruption Prevention Coordinator is responsible for maintaining an Investigation Register which details:
  - Category of allegation
  - Section
- 10 The Corruption Prevention Coordinator will be responsible for the destruction of investigation files in accordance with agreed destruction standards.

#### **4 Management Control Structure to Monitor Investigations**

It is essential that all allegations received and indexed onto the Corruption Investigation Register, maintained by the Corruption Prevention Coordinator.

The Corruption Prevention Co-ordinator will be responsible for the completion of this schedule. Each case will stay on the schedule and be reported until all action is finalised.

Once all action for a case is finalised, including all managerial action, it will be reported as finalised.

All investigation action, including any managerial disciplinary action, if applicable, is expected to be completed within three months of the allegation being received.

All preventative action, if any, required by management as recommended and agreed with the investigator is to be implemented within three months of the investigation being completed.

The Corruption Prevention Co-ordinator is responsible for analysing and undertaking trend analysis of information contained on the register/database eg by location, by investigation type.

**Date:**

#### **MANAGEMENT INVESTIGATION REPORT**

Case No	Date Received	Internal/ External	Location	Type	Investigation Complete	Investigation Result	Management Action Complete	Date finalised

# Section 10: Conduct and Disciplinary System

The following contribute to a sound conduct and disciplinary system:

- employees, Councillors and delegates understand that fraud is a crime and will not be tolerated
- employees, Councillors and delegates understand that those committing fraud will be prosecuted
- employees, Councillors and delegates are clear about rules and requirements, and the values and behaviours expected of them
- the policies and actions of the Council establish a clear and consistent approach to dealing with instances of fraud

Fraud against the Council or corruption by its employees, Councillors and delegates are unacceptable and offender(s) will face disciplinary action. Where crimes have been committed the matters will be reported to the police. Council will implement civil action to recover any losses incurred by fraud.

## 1 Code of Conduct and Policies

The Council has issued a Code of Conduct, which establishes levels of expected behaviour. The Code is revised on a regular basis to ensure that it remains relevant and comprehensive. It meets the standards of the Model Code of Conduct issued by the Office of Local Government.

Other policies dealing with ethical and fraud control matters are issued as considered appropriate.

A copy of the Code and any future revisions will be given to every employee, Councillor and delegates. The Code will be included in the annual report. Posters are used to highlight key issues from the Code. Other methods are used from time to time to ensure that Council officials understand the expected standards of behaviour as regards ethics and fraud control.

Council's Statement of Business Ethics has been developed to detail our high ethical standards to our suppliers, consultants and contractors.

It will be written into the contracts of suppliers, consultants and contractors that they and their employees adhere to the standards. Failure to adhere to these standards can result in the cancellation of their contracts.

## 2 Disciplinary Standards

The Council has disciplinary standards that are detailed in the Council's:

- Code of Conduct; and
- Disciplinary Procedures as per the Local Government State Award.

In all cases of fraud and corruption, consideration will be given to restitution and criminal charges. The General Manager is responsible for making the decision about these matters.

The General Manager decides what disciplinary action is appropriate for employees involved in fraud and corruption.

The Council and/or the Chief Executive of Local Government decide what disciplinary action is appropriate for Councillors involved in fraud and corruption.